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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/893,789
Filing Date: June 29, 2001
Appellant(s): NOVAES, MARCOS NOGUEIRA

Frederick E. Cooperrider (Reg. NO.: 36,769)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed on 07/09/2007 appealing from the Office action mailed 09/29/2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2003/0130998 A1	Fox et al.	07-2003
2003/0177111 A1	Egendorf et al.	09-2003
6,233,571	Egger et al.	05-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

the claimed invention is directed to non-statutory subject matter.

The claims 2-17, 22, 24-39, 44, 45, and 47-51 are rejected under 35 U.S.C. 101.

The claimed invention is abstract idea, which is not "real world" results. The claims are not producing tangible results due to performing mathematical processes, the processes consisting solely of mathematical operations do not manipulate appropriate subject matters. (Benson, 409 U.S. at 71-72, 175 USPQ at 676). Thus, the type of mathematical subject matter does not entitle to patent protection or cannot constitute a statutory process.

2. Also, claims 45 and 47, a computer-readable medium as in specification (page 43 or section 0208 of patent publication application (Pub. No.: US 2003/0004996 A1)) is a signal-bearing media including transmission media such as digital and analog and communication links and wireless, from which is also non-statutory subject matter.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 17 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which does not enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Because at the same time traversing by using hypertext link and by not using hypertext links, it cannot do simultaneously.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 2-10, 22, 24-32, 44, 45 and 47-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pub. No.: US 2003/0130998 A1 of Fox et al. (hereinafter Fox) in view of Pub. No.: US 2003/0177111 A1 of Egendorf et al. (hereinafter Egendorf).

With respect to claim 2, Fox teaches a computer-implemented method of indexing data blocks according to a collection of subject words of the data blocks (an automated information retrieval and visualization systems for document database and displaying n-dimensional of keywords or subject words having indexed, each is a data block: abstract, paragraphs: 0009, 0012-0014 and 0016-0019 and fig. 2a and paragraph 0084), comprising:

constructing a N-dimensional coordinate space, wherein N is a cardinality of the collection of subject words of the data blocks (creating context vector representations for each keyword, topic or subject found in the searches: paragraphs 0054, 0018-0019, 0055, 0104; also see figs. 12 and 13, paragraphs 0054-0055).

Fox teaches indexing document database and constructing vector space for keyword in the searches and building a N-dimensional vector space for N keyword to be retrieved from a document. Fox does not clearly teach traversing data block links leading to discovery of cross-subject affinities.

However, Egendorf teaches traveling information or data of document's rank, that is the closer it will be placed to the beginning of the result list based on the count of the terms in the document for getting the affinity (sections 0036, 0057 and 0060).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Fox with the teachings of Egendorf. One having ordinary skill in the art would have found it motivated to utilize the use of traveling or traversing information to find out an affinity group the affinity as disclosed (Egendorf's section 0036 and 0060), into the system of Fox for the purpose of

searching for information in a plurality of information sources and searching databases on the Internet, thereby, solving the problem of finding current information in an increasingly broad, large scale in the Internet network (Egendorf's sections 0001-0002 and 0052).

With respect to claim 3, Fox teaches determining a closeness of any two data blocks in said database (sections 0019, 0053 and 0074-0084).

With respect to claim 4, Fox teaches wherein said determining is performed according to an equation comprising where D is a data block and pl, p2 are points in the N-dimensional space and S is a summation (paragraphs: 0051-0055 and 0057-0068).

With respect to claims 5 and 9, Fox teach a method of indexing data blocks according to a collection of subject words of the data blocks as discussed in claim 1. Also closer proximity of terms in documents (section 0059).

Fox teaches indexing document database and constructing vector space for keyword in the searches and building a N-dimensional vector space for N keyword to be retrieved from a document. Fox does not clearly teach affine documents.

However, Egendorf teaches traveling information or data of document's rank, that is the closer it will be placed to the beginning of the result list based on the count of the terms in the document for getting the affinity (sections 0036, 0057 and 0060).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Fox with the teachings of Egendorf. One having ordinary skill in the art would have found it motivated to utilize the use of traveling or traversing information to find out an affinity group the affinity as

disclosed (Egendorf's section 0036 and 0060), into the system of Fox for the purpose of searching for information in a plurality of information sources and searching databases on the Internet, thereby, solving the problem of finding current information in an increasingly broad, large scale in the Internet network (Egendorf's sections 0001-0002 and 0052).

With respect to claim 6, Fox teaches wherein all dimensions of said N-dimension coordinate space are considered (vector representations for keywords: paragraphs 0054-0057).

With respect to claim 7, Fox teaches wherein said data blocks comprise documents, said method further comprising building a term-by-document matrix and using all of the terms in N-dimensions in the coordinate space (paragraphs 0014, 0051 and 0054-0055):

With respect to claim 8, Fox teaches utilizing a column term in the term-by-document matrix as a vector (abstract, fig. 2a, paragraphs 0045, 0051 and 0054-0055).

With respect to claim 10, Fox teaches building a proximity list for each data block (paragraphs 0059 and 0065).

With respect to claim 22, Fox teaches a method for indexing database (paragraphs: 0201 and 0212), comprising:

constructing a coordinate system (extracting or retrieving N keywords from a document in order to build or generate a N-dimensional vector space: paragraphs 0018, and 0030-0033); and

mapping documents of said database into the coordinate system to determine a physical closeness of first and second documents of said database (sections 0017, 0019, 0053 and 0074-0084; also section 0059).

Fox teaches indexing document database and constructing vector space for keyword in the searches and building a N-dimensional vector space for N keyword to be retrieved from a document. Fox does not clearly teach traversing data block links leading to discovery of cross-subject affinities.

However, Egendorf teaches traveling information or data of document's rank, that is the closer it will be placed to the beginning of the result list based on the count of the terms in the document for getting the affinity (sections 0036, 0057 and 0060).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Fox with the teachings of Egendorf. One having ordinary skill in the art would have found it motivated to utilize the use of traveling or traversing information to find out an affinity group the affinity as disclosed (Egendorf's section 0036 and 0060), into the system of Fox for the purpose of searching for information in a plurality of information sources and searching databases on the Internet, thereby, solving the problem of finding current information in an increasingly broad, large scale in the Internet network (Egendorf's sections 0001-0002 and 0052).

Claim 24 is essentially the same as claim 2 except that it is directed to a system rather than a method, and is rejected for the same reason as applied to the claim 2 hereinabove.

Claim 25 is essentially the same as claim 3 except that it is directed to a system rather than a method, and is rejected for the same reason as applied to the claim 3 hereinabove.

Claim 26 is essentially the same as claim 4 except that it is directed to a system rather than a method, and is rejected for the same reason as applied to the claim 4 hereinabove.

Claim 27 is essentially the same as claim 5 except that it is directed to a system rather than a method, and is rejected for the same reason as applied to the claim 5 hereinabove.

Claim 28 is essentially the same as claim 6 except that it is directed to a system rather than a method, and is rejected for the same reason as applied to the claim 6 hereinabove.

Claim 29 is essentially the same as claim 7 except that it is directed to a system rather than a method, and is rejected for the same reason as applied to the claim 7 hereinabove.

Claim 30 is essentially the same as claim 8 except that it is directed to a system rather than a method, and is rejected for the same reason as applied to the claim 8 hereinabove.

Claim 31 is essentially the same as claim 9 except that it is directed to a system rather than a method, and is rejected for the same reason as applied to the claim 9 hereinabove.

Claim 32 is essentially the same as claim 10 except that it is directed to a system rather than a method, and is rejected for the same reason as applied to the claim 10 hereinabove.

With respect to claim 44, Fox teaches constructing a coordinate system and a collection of subject words, such that said coordinate system comprises an N-dimensional coordinate space, wherein N is a cardinality of the collection of subject words, a physical closeness of first and second documents of said database, a determining unit for determining a closeness of any two data blocks in said database, a measuring unit for measuring a distance function between data blocks, wherein a document can be added to the coordinate system without impacting a measured of any other document (extracting or retrieving N keywords from a document in order to build or generate a N-dimensional vector space: paragraphs 0018, and 0030-0033; sections 0017, 0019, 0053 and 0074-0084; also section 0059; measurement and distance of documents or data blocks: sections 0004, 0009, 0052-0057 and 0090-0094).

Fox teaches indexing document database and constructing vector space for keyword in the searches and building a N-dimensional vector space for N keyword to be retrieved from a document. Fox does not clearly teach an affinity between two data blocks.

However, Egendorf teaches traveling information or data of document's rank, that is the closer it will be placed to the beginning of the result list based on the count of the terms in the document for getting the affinity (sections 0036, 0057 and 0060).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Fox with the teachings of Egendorf. One having ordinary skill in the art would have found it motivated to utilize the use of traveling or traversing information to find out an affinity group the affinity as disclosed (Egendorf's section 0036 and 0060), into the system of Fox for the purpose of searching for information in a plurality of information sources and searching databases on the Internet, thereby, solving the problem of finding current information in an increasingly broad, large scale in the Internet network (Egendorf's sections 0001-0002 and 0052).

Claim 45 is essentially the same as claim 1 except that it is directed to a signal-bearing medium rather than a method, and is rejected for the same reason as applied to the claim 1 hereinabove.

Claim 47 is essentially the same as claim 44 except that it is directed to a signal-bearing medium rather than a method, and is rejected for the same reason as applied to the claim 44 hereinabove.

With respect to claim 48, Fox teaches wherein each data block represents a document and each said document is represented as a vector which has a position in the N-dimensional coordinate space of N subject words, such that a relationship is independent of any other document (paragraphs 0054-0055).

With respect to claim 49, Fox teaches wherein each data block represents a document and wherein a document can be added to the coordinate space without

impacting a measurement of any other document (paragraphs 0054-0055 and 0107-0109).

Claim 50 is essentially the same as claim 48 except that it is directed to a computer system rather than a computer-implemented method, and is rejected for the same reason as applied to the claim 48 hereinabove.

Claim 51 is essentially the same as claim 49 except that it is directed to a computer system rather than a computer-implemented method, and is rejected for the same reason as applied to the claim 49 hereinabove.

7. Claims 11-17 and 33-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pub. No.: US 2003/0130998 A1 of Fox et al. (hereinafter Fox) in view of Pub. No.: US 2003/0177111 A1 of Egendorf et al. (hereinafter Egendorf) and further in view of Patent No.: US 6,233,571 B1 issued to Egger et al. (hereinafter Egger).

With respect to claim 11-17, Fox in view of Egendorf discloses a method of indexing data blocks as discussed in claim 1.

Fox and Egendorf disclose substantially the invention as claimed.

Fox and Egendorf do not teach a hypertext link, web page, proximity list, a position of visited data block, and an item in the proximity list and hypertext links.

However, Egger teaches hyperlinks (col. 48, lines 46-62); web page, image database (col. 12, lines 40-45); proximity list (proximity indexing method to get order of the list: col. 13, lines 40-50) and a position of a visited data block (col. 13, lines 40-67; col. 15, lines 50-67 and col. 16, lines 12-35 and col. 48, lines 46-62).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Fox in view of Egendorf with the teachings of Egger. One having ordinary skill in the art would have found it motivated to utilize the use of traversing the hypertext links such as hyperlinks document on the web page as disclosed (Egger's col. 48, lines 46-62), into the system of Fox for the purpose of easing user to access and to make useful information available to others, thereby searching for relevant documents over the network and searching for information in a plurality of information sources and searching databases on the Internet, thereby, solving the problem of finding current information in an increasingly broad, large scale in the Internet network more efficient (Egendorf's sections 0001-0002 and 0052).

Claim 33 is essentially the same as claim 11 except that it is directed to a system rather than a method, and is rejected for the same reason as applied to the claim 11 hereinabove.

Claim 34 is essentially the same as claim 12 except that it is directed to a system rather than a method, and is rejected for the same reason as applied to the claim 12 hereinabove.

Claim 35 is essentially the same as claim 13 except that it is directed to a system rather than a method, and is rejected for the same reason as applied to the claim 13 hereinabove.

Claim 36 is essentially the same as claim 14 except that it is directed to a system rather than a method, and is rejected for the same reason as applied to the claim 14 hereinabove.

Claim 37 is essentially the same as claim 15 except that it is directed to a system rather than a method, and is rejected for the same reason as applied to the claim 15 hereinabove.

Claim 38 is essentially the same as claim 16 except that it is directed to a system rather than a method, and is rejected for the same reason as applied to the claim 16 hereinabove.

Claim 39 is essentially the same as claim 17 except that it is directed to a system rather than a method, and is rejected for the same reason as applied to the claim 17 hereinabove.

(10) Response to Argument

1, **Rejections under 35 USC 101**

Appellant argued that, "all pending claims are directed to statutory subject matter 35 U.S.C. 101."

The claimed invention is to perform mathematical expression, which describes nothing more than the manipulation of basic mathematical constructs, the paradigmatic abstract idea, (such as mathematical algorithm). (constructing a N-dimensional coordinate space ... in claims 2, 24 and 45), the processes consists solely of mathematical operations do not manipulate appropriate subject matters. (Benson, 409

U.S. at 71-72, 175 USPQ at 676). Thus, the type of mathematical subject matter does not entitle to patent protection or cannot constitute a statutory process.

Also, claims 45 and 47, a computer-readable medium as in specification (page 43 or section 0208 of patent publication application (Pub. No.: US 2003/0004996 A1)) is a signal-bearing media including transmission media such as digital and analog and communication links and wireless. These are non-statutory subject matter.

2. **Rejection under 112 first paragraph: Enablement Requirement**

Claim 17 is rejected under 112, first paragraph as failing to comply with enablement requirement. Because the claimed invention is at the same time for traversing by using hypertext link and by not using hypertext links. It cannot do simultaneously.

3. **Rejections under USC 103**

Argument:

Appellant respectfully submits that Fox does not teach or suggest taking documents from the database itself and developing an N-dimensional coordinate space of the documents of the database.

Response:

Fox teaches a 3-dimensional coordinate space as shown in fig. 12. Each document in the retrieved document (or web page) may be represented mathematically in the 3-dimensional space by a colored cube. Each colored cube is a retrieved document or web page or data block. And each keyword or word is a subject word. (see paragraph 0108 in Fox): (**FIG. 12a shows an example of the 3-dimensional viewer**

containing documents retrieved for the McVeigh trial topic using the query keywords: McVeigh, trial, Oklahoma City, and bomb. Document locations are represented in space by a box. Additionally in this view, documents determined as relevant by the information retrieval system 10 displays the document name next to the box). Also, Fox teaches using ranking algorithm for documents as web pages, as well as indexing the data blocks. (see paragraph 0092: **A ranking processor 22 uses an algorithm to fuse the results of the retrieval engines and ranks the documents based on the number of times the document was selected, highest score, lowest score, average score, location in the query list and number of retrieval engines locating the document. Irrelevant documents and queries can be removed. Each topic is made up of multiple queries from each of the retrieval components. The scores are scaled by query and for the entire topic, i.e., all the queries. Each set of scores are a separate entry into the ranking algorithm).**

Argument:

Appellant respectfully submits that it would not have been obvious to combine Fox and Egendorf, ..., to arrive at the claimed invention.

Response:

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the

references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Fox and Egendorf are from the same field of endeavor and both are directed to retrieval documents, images, pictures or web pages as data blocks and these documents or web page are indexing or ranking for helping user to locate the desired information. One having ordinary skill in the art would have found it motivated to modify the teachings of Fox and Egendorf because that would provide Fox's system the enhanced capability of searching information on the Internet from a plurality of information sources, which potentially meet the given search criteria, thereby, helping to solve the problem of finding information in an increasingly broad, large scale in the Internet network (Egendorf's abstract and 0001-0002). Moreover, the examiner kindly submits that the applicants misread the applicable references used in the last office action. However, when read and analyzed in light the specification, the invention as claimed does not support applicant's assertions. Actually, applicants are interpreting the claims very narrow without considering the broad teaching of the references used in the rejections. Additionally, it is important to note that the examiner interpretation of the claims, wherein, the examiner explicitly stated passages in the cited references which were not even addressed. The aforementioned assertion wherein all the limitations are not taught or suggested by the prior of record, was unsupported by objective factual evidence and was not found to be substantial evidentiary value. The examiner has provided in the last office action, a convincing one of reasoning as to why the artisan would have found the

claimed invention to have been obvious in light of the teachings of the cited references. Applicants are reminded that 37 CFR 1.111(b) states, a general allegation that the claims define a patentable invention without specifically printing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Therefore, the applicants have failed to provided prima facie evidence how the language of the claims patentably distinguished them from the cited references. Hence, the applicants' assertions are just mere allegation with no supported fact.

Argument:

Appellant respectfully submits that by teaching counting the terms of the document, Egendorf clearly teaches away from the claimed invention, as well as the teachings of Fox ... that it would not have been obvious to combine Fox and Egendorf, ... to arrive at the claimed invention.

Response:

Egendorf teaches counting the frequencies of occurrences of words or terms in the document or web page and the number of links or hyperlinks that point to a page as a measure of its importance, and mechanisms to cross reference and link elements as traversing the web page or data block for getting the affinity of the data block or the calculation distance for the relationship of web page or closeness as well as affinity (sections 0036, 0038, and 0060). **(Word frequency ranking is a standard technique to count the number of times that each word appears in a document. However, it**

makes the overly simplistic assumption that the more often a word appears, the more likely the word is to represent the content of the document. The document's rank, that is, the closer it will be placed to the beginning of the result list, is then based on the count). Also, Fox teaches the counting of occurrences of string and distance between vectors representing the query, and the documents (Fox's 0057). **(The document's score is obtained by computing the distance between the vectors representing the query and the document. Scores for relevant documents typically range from approximately 0.45 to 1. The closer to 1, the better the document matches the search query**).

Thus, Fox and Egendorf both are in the same field of endeavor and both are directed to retrieval documents, images, pictures or web pages as data blocks and these documents or web page are indexing or ranking for helping user to locate the desired information and computing the distance the data block.

Argument:

Appellant respectfully submits that claims 11-17 and 33-39 also are patentable over Fox, Egendorf and Egger, either individual or in combination.

Response:

Fox teaches indexing document database and constructing vector space for keyword in the searches and building a N-dimensional vector space for N keyword to be retrieved from a document. Also, Fox teaches the counting of occurrences of string and distance between vectors representing the query, and the documents (Fox's 0057).

Egendorf teaches counting the frequencies of occurrences of words or terms in the document or web page and the number of links or hyperlinks that point to a page as a measure of its importance, and mechanisms to cross reference and link elements as traversing the web page or data block for getting the affinity of the data block or the calculation distance for the relationship of web page or closeness as well as affinity (sections 0035, 0038, and 0060). Egger teaches hyperlinks (col. 48, lines 46-62); web page, image database (col. 12, lines 40-45); proximity list (proximity indexing method to get order of the list: col. 13, lines 40-50) and a position of a visited data block (col. 13, lines 40-67; col. 15, lines 50-67 and col. 16, lines 12-35 and col. 48, lines 46-62);

(see Eggers' abstract: Using this proximity index, an efficient search for pools of data having a particular relation, pattern or characteristic can be effectuated. The Computer Search program, called the Computer Search Program for Data represented in Matrices (CSPDM), provides efficient computer search methods. The CSPDM rank orders data in accordance with the data's relationship to time, a paradigm datum, or any similar reference. An alternative embodiment of the invention employs a cluster link generation algorithm, which uses links and nodes to index and search a database or network. The algorithm searches for direct and indirect links to a search node and retrieves the nodes, which are most closely related to the search node. And proximity indexing generates a quick-reference of the relations, patterns, and similarity found among the data in the database. Using this proximity index, an efficient search for pools of data having a particular relation, pattern or characteristic can be effectuated.)

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Anh LY

Patent Examiner (GAU: 2162)

Conferees:

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